

**IN THE UNITED STATES DISTRICT COURT
FOR WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

ANDRES CASTANEDA,

Plaintiff,

v.

WAL-MART STORES TEXAS, LLC

Defendant.

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No.: 3:20-CV-00186

NOTICE OF REMOVAL

Defendant Wal-Mart Stores Texas, LLC (“Defendant”) files this Notice of Removal removing Cause No. 2020-DCV-1798 from the County Court at Law 6, El Paso County, Texas to this Court pursuant to 28 U.S.C. §§ 1332 and 1441.

I. PROCEDURAL BACKGROUND

1. On May 27, 2020, Plaintiff Andres Castaneda (“Plaintiff”) filed his “Original Petition” against Defendant in the County Court at Law No. 6, El Paso County, Texas styled *Andres Castaneda v. Wal-Mart Stores Texas, LLC*, 2020-DCV-1798. In his Original Petition, Plaintiff alleges disability discrimination in violation of Chapter 21 of the Texas Labor Code.

2. Plaintiff served his Original Petition on Defendant on June 2, 2020. This removal is thus timely filed. True and correct copies of all pleadings served on Defendant are attached hereto.

II. DIVERSITY JURISDICTION

A. There is Complete Diversity of Citizenship Between Plaintiff and Defendant

3. The District Courts of the United States have original jurisdiction over this action based on complete diversity between the parties, in that Defendant is now, and at the time the

action was filed, diverse in citizenship from Plaintiff. Upon information and belief, Plaintiff is a resident of El Paso County, Texas and a citizen of the State of Texas. *See* Pl.’s Orig. Pet. p. 1, ¶ II. Defendant is a single-member limited liability company whose sole member is Wal-Mart Real Estate Business Trust whose sole shareholder is Wal-Mart Property Co. Wal-Mart Property Co. is a corporation incorporated in Delaware and has its principal place of business in Arkansas. Thus, there is complete diversity of citizenship between Plaintiff and Defendant.

B. The Amount In Controversy Requirement Is Met

4. Where it is “facially apparent” that the claims more likely than not exceed \$75,000, exclusive of interest and costs, the amount in controversy requirement of \$75,000 for diversity jurisdiction is met. *Felton v. Greyhound Lines, Inc.*, 324 F.3d 771, 773 (5th Cir. 2003) (quoting *DeAguilar v. Boeing Co.*, 11 F.3d 55, 58 (5th Cir. 1993)). In his Original Petition, Plaintiff pleads that he is seeking to recover monetary damages of over \$200,000 but not more than \$1,000,000.00. Pl.’s Orig. Pet. p. 4, ¶ VI. Thus, it is apparent from the face of Plaintiff’s Original Petition that the amount-in-controversy in this case exceeds \$75,000.

5. Accordingly, because this civil action is wholly between citizens of different states and because the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs, this Court has original jurisdiction over this matter pursuant to 28 U.S.C. § 1332(a)(1), and this action is removable pursuant to 28 U.S.C. § 1441.

III. PROPER VENUE AND COMPLIANCE WITH REMOVAL PROCEDURE

6. Under 28 U.S.C. § 1441(a), venue of the removed action is proper in this Court as the district and division embracing the place where the state action is pending.

7. Defendant will promptly give Plaintiff written notice of the filing of this Notice of Removal as required by 28 U.S.C. § 1446(d). Defendant will also promptly file a copy of this

Notice of Removal with the Clerk of the County Court at Law No. 6, El Paso County, Texas, where the action is currently pending, also pursuant to 28 U.S.C. § 1446(d).

8. True and correct copies of all process, pleadings, and the orders served upon Defendant in the state court action are being filed with this notice as required by 28 U.S.C. § 1446(a) and attached hereto.

9. Pursuant to 28 U.S.C. § 1446(b), this Notice Removal is filed within thirty (30) days after service of the initial pleading setting forth a removable claim.

ACCORDINGLY, Defendant hereby removes Cause No. 2020-DCV-1798 from the County Court at Law No. 6, El Paso County, Texas on this 30th day of June, 2020.

Respectfully submitted,

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By: /s/ Clara B. Burns
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Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served on the attorney for Plaintiff, Oscar Mendez, Jr., Scherr & Legate, PLLC, 109 N. Oregon St., 12th Floor, El Paso, Texas, 79901, on the 30th day of June, 2020.

- ☐ Regular Mail, Postage Prepaid
- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- X Electronic Transmission: OMendez@ScherrLegate.com
- ☐ Facsimile Transmission: (915) 532-1759

/s/ Jose A. Gonzalez

JOSE A. GONZALEZ